

# Sample Contract

Exhibit C

SAMPLE

	<p align="center"><b>PERSONAL SERVICE CONTRACT</b></p> <p align="center"><b>Residential Evaluator</b></p>		DSHS Contract Number: Resulting From Procurement Number:	
This Contract is between the state of Washington Department of Social and Health Services (DSHS) and the Contractor identified below, and is governed by chapter 39.29 RCW.			Program Contract Number:  Contractor Contract Number:	
CONTRACTOR NAME		CONTRACTOR doing business as (DBA)		
CONTRACTOR ADDRESS		WASHINGTON UNIFORM BUSINESS IDENTIFIER (UBI)		DSHS INDEX NUMBER
CONTRACTOR CONTACT	CONTRACTOR TELEPHONE	CONTRACTOR FAX	CONTRACTOR E-MAIL ADDRESS	
DSHS ADMINISTRATION	DSHS DIVISION		DSHS CONTRACT CODE	
DSHS CONTACT NAME AND TITLE Christy Hoosier Contracts Manager		DSHS CONTACT ADDRESS Aging and Disability Services Administration PO Box 45600 OlympiaWA 98504-5600		
DSHS CONTACT TELEPHONE 360-725-3209	DSHS CONTACT FAX 360-725-2639		DSHS CONTACT E-MAIL ADDRESS <a href="mailto:hoosicr@dshs.wa.gov">hoosicr@dshs.wa.gov</a>	
IS THE CONTRACTOR A SUBRECIPIENT FOR PURPOSES OF THIS CONTRACT? No		CFDA NUMBERS		
CONTRACT START DATE		CONTRACT END DATE		CONTRACT MAXIMUM AMOUNT
<b>EXHIBITS. The following Exhibits are attached and are incorporated into this Contract by reference:</b> <input type="checkbox"/> Exhibits (specify): <input type="checkbox"/> No Exhibits.				
The terms and conditions of this Contract are an integration and representation of the final, entire and exclusive understanding between the parties superseding and merging all previous agreements, writings, and communications, oral or otherwise, regarding the subject matter of this Contract. The parties signing below represent that they have read and understand this Contract, and have the authority to execute this Contract. This Contract shall be binding on DSHS only upon signature by DSHS.				
CONTRACTOR SIGNATURE		PRINTED NAME AND TITLE		DATE SIGNED
DSHS SIGNATURE		PRINTED NAME AND TITLE		DATE SIGNED

## SPECIAL TERMS AND CONDITIONS

1. **Definitions.** The words and phrases listed below, as used in this Contract, shall each have the following definitions:
- a. "ADSA" means Aging and Disability Services Administration, an administration within the Department of Social and Health Services.
  - b. "Agency" or "Agencies" mean ADSA funded residential support-service agencies.
  - c. "Central Contract Services" means the DSHS central headquarters contracting office, or successor section or office.
  - d. "Contract" means the entire written agreement between DSHS and the Contractor, including any Exhibits, documents, and materials incorporated by reference.
  - e. "Contracts Administrator" means the manager, or successor, of Central Contract Services or successor section or office.
  - f. "Contractor" means the individual or entity performing services pursuant to this Contract and includes the Contractor's owners, members, officers, directors, partners, employees, and/or agents, unless otherwise stated in this Contract. For purposes of any permitted Subcontract, "Contractor" includes any Subcontractor and its owners, members, officers, directors, partners, employees, and/or agents.
  - g. "Corrective Action Plan" (CAP) means action(s) that will be taken by an Agency in order to achieve substantial compliance with its contract and/or with a regulation that has been found to be unmet.
  - h. "DSHS" or the "Department" means the state of Washington Department of Social and Health Services and its employees and authorized agents.
  - i. "Non-compliance" means the failure of the agency to substantially meet regulatory and/or contractual requirements.
  - j. "RCS" means Residential Care Services, a division within ADSA.
  - k. "Personal Information" means information identifiable to any person, including, but not limited to, information that relates to a person's name, health, finances, education, business, use or receipt of governmental services or other activities, addresses, telephone numbers, Social Security Numbers, driver license numbers, other identifying numbers, and any financial identifiers.
  - l. "RCS" means Residential Care Services, a division within ADSA.
  - m. "RCW" means the Revised Code of Washington. All references in this Contract to RCW chapters or sections shall include any successor, amended, or replacement statute. <http://slc.leg.wa.gov/>
  - n. "Regulation" means any federal, state, or local regulation, rule, or ordinance.
  - o. "Subcontract" means any separate agreement or contract between the Contractor and an individual or entity ("Subcontractor") to perform all or a portion of the duties and obligations that the Contractor is obligated to perform pursuant to this Contract.
  - p. "Subrecipient" means a non-federal entity that expends federal awards received from a pass-through entity to carry out a federal program, but does not include an individual that is a beneficiary of such a program. A subrecipient may also be a recipient of other federal awards directly from a federal awarding agency.

- q. "WAC" means the Washington Administrative Code. All references in this Contract to WAC chapters or sections shall include any successor, amended, or replacement regulation.  
<http://slc.leg.wa.gov/>

## **2. Statement of Work.**

- a. The Contractor shall conduct community residential service evaluations related to the certification of residential support-services agencies (Agency or Agencies) as follows:
- (1) RCS shall determine the composition of each evaluation team, the number of contracted team members and the schedule for the Contractor(s) to conduct on-site outcome based evaluations of Agencies funded by ADSA.
  - (2) Agencies that serve 21 or more individuals will have a minimum of 2 contracted evaluators assigned to conduct the evaluation.
- b. The Contractor shall:
- (1) Use RCS processes, principles, procedures and guidelines as required by RCS, in order to evaluate the operation and performance of an ADSA funded Agency as defined and described in:
    - (a) State statute (RCW)
    - (b) State administrative rule (WAC), and
    - (c) Contract
  - (2) Provide RCS and the Agency with written and oral reports of the evaluation, as well as any related documentation or information (including but not limited to: notes, working papers, and supporting evidence) as requested by RCS.
- c. The evaluation and report shall include evidence of non-compliance by the Agency based upon:
- (1) Observation of clients in each of their homes, and during timeframes representative of their daily routines (e.g., meals, leisure activities, employment, etc.)
  - (2) Interviews with clients
  - (3) Interviews with instruction and support staff
  - (4) Interviews with family members, guardians and/or clients' friends
  - (5) Review of the client's files including health, program activity and financial records
  - (6) Review of the Agency's policies and procedures, personnel records, and fiscal records
- d. The evaluation and report may include, as needed, information from other significant people in the clients' lives, such as:
- (1) Agency administrative staff
  - (2) ADSA field services staff

- (3) Professional staff contracted with ADSA
- (4) Board members
- (5) County staff and/or board members, and
- (6) Staff of vocational and/or educational programs in which the clients are involved
- e. The Contractor shall complete each evaluation in consecutive days, unless otherwise approved by RCS.
- f. The Contractor shall be required, as needed, to travel statewide, work early mornings and late evenings, and may be required to work weekends to accomplish the observations, interviews, record reviews, contacts and meetings as needed.
- g. The Contractor shall:
  - (1) Facilitate an exit conference and present a draft summary of the results of the evaluation to the Agency, in both oral and written form.
  - (2) Facilitate the Agency's development of a CAP, in response to findings of non-compliance.
  - (3) Within five working days of the exit conference, submit to RCS, the original typed completed report and any related documentation or information (including but not limited to: notes, working papers, and supporting evidence).
  - (4) Include the CAP in the original typed report unless directed otherwise by RCS.
  - (5) Provide RCS with feedback concerning the evaluation format, procedures and process.
  - (6) Assist RCS in training new residential support service evaluators.
  - (7) Verify implementation of CAPs upon request of RCS.
  - (8) Provide technical assistance to ADSA staff and Agencies when requested by RCS.

### **3. Billing and Payment.**

- a. The total compensation payable to the Contractor for satisfactory performance of the work under this contract up to a Contract Maximum Amount of \$20,000.00, which includes all fees and expenses paid pursuant to paragraph b., c., and d. below.
- b. The Contractor's compensation for services rendered are as follows:
  - (1) \$1,083.00 per evaluation; and
  - (2) Reimbursement for RCS authorized travel costs, per diem and other allowable expenses as defined in the DSHS Travel Manual.
- c. The Contractor shall receive reimbursement for authorized travel and other expenses which may include:
  - (1) Airfare (economy or coach class only),

(2) Other transportation expenses, and

(3) Lodging and subsistence necessary during periods of required travel.

The Contractor shall receive compensation for travel expenses at current state of Washington travel reimbursement rates. Receipts must be attached to the invoices for reimbursement of any expenditure in the amount of \$25.00 or more.

d. DSHS shall pay the Contractor an hourly rate of \$27.00 per hour for:

(1) Participation in mandatory training sessions,

(2) Partial evaluations,

(3) Technical assistance to the department,

(4) Attendance of conferences when requested by RCS, and

(5) Additional services requested by RCS.

e. The Contractor shall submit billings for evaluations and travel expenses in the manner prescribed and on forms provided by ADSA. Billings shall be submitted to the ADSA program manager, and ADSA shall pay the Contractor upon receipt and approval of the evaluation report.

f. Payment shall be considered timely if made by DSHS within 30 days after receipt of properly completed A – 19 and A – 20 invoice documents. Payment shall be sent to the address designated by the Contractor.

g. DSHS may, at its sole discretion, terminate the contract or withhold payments claimed by the Contractor for services rendered if the Contractor fails to satisfactorily comply with any term or condition of this contract.

h. The Contractor ensures that work to be performed does not duplicate work to be charged to the State of Washington under any other contract or agreement.

## GENERAL TERMS AND CONDITIONS

1. **Advance Payment and Billing Limitations.**
  - a. DSHS shall not make any payments in advance or anticipation of the delivery of services to be provided pursuant to this Contract.
  - b. DSHS shall pay the Contractor only for authorized services provided in accordance with this Contract.
  - c. DSHS shall not pay any claims for payment for services submitted more than twelve (12) months after the calendar month in which the services were performed.
  - d. The Contractor shall not bill and DSHS shall not pay for services performed under this Contract, if the Contractor has charged or will charge the state of Washington or any other party for the same services.
2. **Amendment.** This Contract, or any term or condition, may be modified by a written amendment signed by both parties. Only personnel authorized to bind each of the parties may sign an amendment.
3. **Assignment.** The Contractor shall not assign this Contract, its rights or obligations hereunder, without obtaining the prior written consent of DSHS. DSHS shall not recognize any assignment without such prior written consent. In the event consent is given and this Contract is assigned, all terms and conditions of this Contract shall be binding upon the Contractor's successors and assigns.
4. **Compliance with Applicable Law.** At all times during the term of this Contract, the Contractor shall comply with all applicable federal, state, and local laws and regulations, including but not limited to, nondiscrimination laws and regulations.
5. **Confidentiality.** The Contractor may use Personal Information and other information gained by reason of this Contract only for the purpose of this Contract. The Contractor shall not disclose, transfer, or sell any such information to any party, except as provided by law or, in the case of Personal Information, with the prior written consent of the person to whom the Personal Information pertains or their legal guardian. The Contractor shall maintain and protect the confidentiality of all Personal Information and other information gained by reason of this Contract. Upon written request by DSHS, Contractor shall either return to DSHS or destroy and certify destruction of, all Personal Information.
6. **Contractor Certification Regarding Ethics.** The Contractor certifies that the Contractor is now, and shall remain, in compliance with Chapter 42.52 RCW, Ethics in Public Service, throughout the term of this Contract.
7. **Debarment Certification.** If requested by DSHS, the Contractor shall complete a Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion form that shall be incorporated into this Contract by reference.
8. **Governing Law and Venue.** This Contract shall be governed by the laws of the

state of Washington. In the event of any action brought hereunder, venue shall be proper only in Thurston County, Washington.

- 9. Health and Safety.** Contractor shall perform any and all of its obligations under this Contract in a manner that does not compromise the health and safety of any DSHS client with whom the Contractor has contact.

**10. HIPAA Compliance.**

**a. Definitions.**

- (1) "Business Associate" means the "Contractor", as used in this Contract and as defined in 45 CFR 160.103, who performs or assists in the performance of an activity for or on behalf of the Covered Entity that involves the use or disclosure of client protected health information (PHI). Any reference to Business Associate in this Contract includes Business Associate's employees, agents, officers, subcontractors, third party contractors, volunteers, or directors.
- (2) "Covered Entity" means DSHS, a Covered Entity as defined in 45 CFR 160.103.
- (3) "Designated Record Set" means a group of records maintained by or for a Covered Entity, that is: the medical and billing records about Individuals maintained by or for a covered health care provider; the enrollment, payment, claims adjudication, and case or medical management record systems maintained by or for a health plan; or used in whole or part by or for the Covered Entity to make decisions about Individuals.
- (4) "Electronic Protected Health Information (EPHI)" means protected health information that is transmitted by electronic media or maintained in any medium described in the definition of electronic media at 45 CFR 162.103.
- (5) "HIPAA" means the Health Insurance Portability and Accountability Act of 1996, as codified at 42 USCA 1320d-d8.
- (6) "Individual(s)" means the person(s) who is the subject of PHI and includes a person who qualifies as a personal representative in accordance with 45 CFR 164.502(g).
- (7) "Minimum Necessary" means the least amount of PHI necessary to accomplish the purpose for which the PHI is needed.
- (8) "Protected Health Information (PHI)" means information created or received by Business Associate from or on behalf of Covered Entity that relates to the provision of health care to an Individual; the past, present, or future physical or mental health or condition of an Individual; or past, present, or future payment for provision of health care to an Individual. 45 CFR 160.103. PHI includes demographic information that identifies the Individual or about which there is reasonable basis to believe can be



used to identify the Individual. 45 CFR 160.103. PHI is information transmitted or held in any form or medium. 45 CFR 160.103. PHI does not include education records covered by the Family Educational Rights and Privacy Act, as amended, 20 USCA 1232g(a)(4)(B)(iv).

- (9) "Use" includes the sharing, employment, application, utilization, examination, analysis, canonization or commingling of PHI with other information.
- b. **Compliance.** Business Associate shall perform all Contract duties, activities and tasks in compliance with HIPAA and its attendant regulations as promulgated by the U.S. Department of Health and Human Services, the Center for Medicare and Medicaid Services, the Office of the Inspector General, and the Office of Civil Rights .
- c. **Use and Disclosure of PHI.** Business Associate is limited to the following permitted and required uses or disclosures of DSHS client PHI:
- (1) **Duty to Protect DSHS Client PHI.** Business Associate shall protect PHI from, and shall establish appropriate safeguards to prevent, the unauthorized disclosure of PHI in accordance with the terms and conditions of this Contract and state and federal law, including any regulations governing the security of PHI and the transmission, storage or maintenance of electronic data that contains PHI, for as long as the PHI is within its possession and control, even after the termination or expiration of this Contract.
- (2) **Return of DSHS Client PHI.** Business Associate shall, within ten (10) working days of termination or expiration of this Contract, in accordance with Contract Termination and Expiration Procedures, and at the discretion of Covered Entity, either return or destroy all PHI, including PHI in possession of third parties under contract to Business Associate. If return or destruction is infeasible, Business Associate shall protect such PHI and limit its further use and disclosure to those purposes that make return or destruction infeasible for as long as the PHI is within the Business Associate's possession and control, even after the termination or expiration of this Contract.
- (3) **Minimum Necessary Standard.** Business Associate shall apply the HIPAA minimum necessary standard to any use or disclosure of DSHS client PHI necessary to achieve the purposes of this Contract. See, 45 CFR 164.514 (d)(2) through (d)(5).
- (4) **Disclosure as Part of the Provision of Services.** Business Associate shall only use or disclose DSHS client PHI as required to perform the services specified in this Contract or as required by law, and shall not use or disclose such PHI in any manner inconsistent with the use and disclosure restrictions placed on the Covered Entity by HIPAA.
- (5) **Impermissible Use or Disclosure of DSHS client PHI.** Business Associate shall report to DSHS in writing all uses or disclosures of PHI not provided

for by this Contract within five (5) working days of becoming aware of the unauthorized use or disclosure of the PHI. Upon request by DSHS, Business Associate shall mitigate, to the extent practicable, any harmful effect resulting from the impermissible use or disclosure.

- (6) Failure to Cure. If DSHS learns of a pattern or practice of the Business Associate that constitutes a violation of the Business Associate's obligations under the terms of this Contract and reasonable steps by DSHS do not end the violation, DSHS shall terminate this Contract. If termination is not feasible, DSHS will report the problem to the Secretary of the federal Department of Health and Human Services (Secretary).
- (7) DSHS Notice of Requests for Disclosure. DSHS will notify Business Associate when DSHS client PHI is requested from DSHS that has been previously provided to Business Associate by DSHS. The parties will jointly determine whether Business Associate has received a duplicate request or if Business Associate has the original or sole copy of the PHI.
- (8) Consent to Audit. Business Associate shall give reasonable access to DSHS client PHI, records, books, documents, electronic data and/or all other business information received from, or created or received by Business Associate on behalf of DSHS, to the Secretary and/or to DSHS for use in determining DSHS' compliance with HIPAA privacy requirements.

#### **d. Individual Rights**

##### **(1) Accounting of Disclosures**

- (a) Business Associate shall document all disclosures of DSHS client PHI and information related to such disclosures.
- (b) Within ten (10) working days of a request from DSHS, Business Associate shall make available to DSHS the information in Business Associate's possession that is necessary for DSHS to respond in a timely manner to a request for an accounting of disclosures of DSHS client PHI. See, 45 C.F.R. 164.504 and 164.528.
- (c) At the request of DSHS, Business Associate shall respond, in a timely manner and in accordance with HIPAA, to requests by Individuals for an accounting of disclosures of PHI.
- (d) If any Individual asks Business Associate for an accounting of disclosures of DSHS client PHI, or for access to or amendment of PHI in a Designated Record Set, Business Associate shall within ten (10) working days forward the request to DSHS for response.
- (e) Business Associate's record keeping procedures shall be sufficient to respond to a request for an accounting under this section for the six (6) years prior to the date on which the accounting was requested except for disclosures that occurred prior to the HIPAA compliance

date for the Covered Entity.

(2) Amendment. If DSHS amends, in whole or in part, a record or PHI contained in an Individual's Designated Record Set and DSHS has previously provided the PHI or record that is the subject of the amendment to Business Associate, then DSHS will inform Business Associate of the amendment pursuant to 45 CFR 164.526 (c)(3).

e. **Third Party Agreements.** Business Associate shall enter into a written contract, that contains the same terms, restrictions, and conditions as the HIPAA Compliance provision in this Contract, with any agent, subcontractor, independent contractor, or other third party that has access to the DSHS client PHI accessible to Business Associate under the terms of this Contract.

**11. Indemnification and Hold Harmless.**

- a. The Contractor shall be responsible for and shall indemnify, defend, and hold DSHS harmless from all claims, loss, liability, damages, or fines arising out of or relating to a) the Contractor's or any Subcontractor's performance or failure to perform this Contract, or b) the acts or omissions of the Contractor or any Subcontractor.
- b. The Contractor waives its immunity under Title 51 RCW to the extent it is required to indemnify, defend, and hold harmless the State and its agencies, officials, agents, or employees.

**12. Independent Contractor.** The Contractor hereby acknowledges that the Contractor is an independent contractor and not an officer, employee, or agent of DSHS or the state of Washington. The Contractor shall not represent itself as, nor claim status as, an officer, employee, or agent of DSHS or the state of Washington. The Contractor shall not claim for the Contractor or the Contractor's employees any rights, privileges, or benefits which would accrue to an employee of the state of Washington. Contractor shall not be eligible to participate in DSHS' employee benefit programs, including but not limited to, group insurance, retirement, vacation and other such benefits. Contractor shall be responsible for the payment of its internal administrative costs, including but not limited to, federal, state and social security tax payments. The Contractor shall indemnify and hold DSHS harmless from all obligations to pay or withhold federal or state taxes or contributions on behalf of the Contractor or the Contractor's employees.

**13. Industrial Insurance Coverage.** The Contractor shall comply with the provisions of Title 51 RCW, Industrial Insurance. If the Contractor fails to provide industrial insurance coverage or fails to pay premiums or penalties on behalf of its employees, as may be required by law, Agency may collect from the Contractor the full amount payable to the Industrial Insurance accident fund. The Agency may deduct the amount owed by the Contractor to the accident fund from the amount payable to the Contractor by the Agency under this contract, and transmit the deducted amount to the Department of Labor and Industries, (L&I) Division of Insurance Services. This provision does not waive any of L&I's rights to collect from the Contractor.

- 14. Inspection.** During the term of this Contract and for one (1) year following termination or expiration of this Contract, the Contractor shall provide reasonable access to the Contractor's place of business, Contractor records, and client records, to DSHS and to any authorized agent of the state of Washington or the federal government in order to monitor, audit, and evaluate the Contractor's performance and compliance with applicable laws, regulations, and this Contract.
- 15. Maintenance of Records.** During the term of this Contract and for six (6) years following termination or expiration of this Contract, the Contractor shall maintain records sufficient to:
- a. Document performance of all acts required by law, regulation, or this Contract;
  - b. Substantiate the Contractor's statement of its organization's structure, tax status, capabilities, and performance; and
  - c. Demonstrate accounting procedures, practices, and records which sufficiently and properly document the Contractor's invoices to DSHS and all expenditures made by the Contractor to perform as required by this Contract.
- 16. Notice of Overpayment.** If the Contractor receives a vendor overpayment notice or a letter communicating the existence of an overpayment from DSHS, the Contractor may protest the overpayment determination by requesting an adjudicative proceeding. The Contractor's request for an adjudicative proceeding must:
- a. Be *received* by the Office of Financial Recovery (OFR) at Post Office Box 9501, Olympia, Washington 98507-9501, within twenty-eight (28) calendar days of service of the notice;
  - b. Be sent by certified mail (return receipt) or other manner that proves OFR received the request;
  - c. Include a statement as to why the Contractor thinks the notice is incorrect; and
  - d. Include a copy of the overpayment notice.

Timely and complete requests will be scheduled for a formal hearing by the Office of Administrative Hearings. The Contractor may be offered a pre-hearing or alternative dispute resolution conference in an attempt to resolve the overpayment dispute prior to the hearing.

Failure to provide OFR with a written request for a hearing within twenty-eight (28) days of service of a vendor overpayment notice or other overpayment letter will result in an overpayment debt against the Contractor. DSHS may charge the Contractor interest and any costs associated with the collection of this overpayment. DSHS may collect an overpayment debt through lien, foreclosure, seizure and sale of the Contractor's real or personal property; order to withhold and deliver; or any other collection action available to DSHS to satisfy the

overpayment debt.

17. **OFM Filing Requirement.** Under Chapter 39.29 RCW, certain Personal Service Contracts and amendments must be filed with the state of Washington Office of Financial Management (OFM). If this Contract must be filed, then it shall not be effective nor shall work commence or payment be made until reviewed or approved by OFM.
18. **Order of Precedence.** In the event of an inconsistency in this Contract, the inconsistency shall be resolved by giving precedence in the following order:
  - a. Applicable federal and state of Washington statutes and regulations;
  - b. Special Terms and Conditions contained in this Contract;
  - c. General Terms and Conditions contained in this Contract;
  - d. Exhibits, if any, as indicated on page one of this Contract;
  - e. DSHS solicitation documents, if any, associated with this Contract;
  - f. Any other material incorporated herein by reference.
19. **Ownership of Material.** Material created by the Contractor and paid for by DSHS as a part of this Contract shall be owned by DSHS and shall be “works for hire” as defined by the U.S. Copyright Act of 1976. This material includes, but is not limited to: books, computer programs, documents, films, pamphlets, reports, sound reproductions, studies, surveys, tapes, and/or training materials. Material the Contractor uses to perform this Contract, that is not created for or paid for by DSHS, is owned by the Contractor; however, DSHS shall have a perpetual license to use this material for DSHS internal purposes at no charge to DSHS.
20. **Severability.** The terms and conditions of this Contract are severable. If any term or condition of this Contract is held invalid by any court, such invalidity shall not affect the validity of the other terms or conditions of this Contract.
21. **Subcontracting.** Except as otherwise provided in this Contract, the Contractor shall not Subcontract any of the contracted services without the prior approval of DSHS as specified in a written amendment to this Contract. Contractor is responsible to ensure that all terms, conditions, assurances and certifications set forth in this Contract are included in any and all Subcontracts. Any failure of Contractor or its Subcontractors to perform the obligations of this Contract shall not discharge the Contractor from its obligations hereunder or diminish DSHS’ rights or remedies available under this Contract.
22. **Subrecipients.**
  - a. General. If the Contractor is a subrecipient of federal awards as defined by Office of Management and Budget (OMB) Circular A-133 and this Contract, the Contractor shall:

- (1) Maintain records that identify, in its accounts, all federal awards received and expended and the federal programs under which they were received, by Catalog of Federal Domestic Assistance (CFDA) title and number, award number and year, name of the federal agency, and name of the pass-through entity;
  - (2) Maintain internal controls that provide reasonable assurance that the Contractor is managing federal awards in compliance with laws, regulations, and provisions of contracts or grant agreements that could have a material effect on each of its federal programs;
  - (3) Prepare appropriate financial statements, including a schedule of expenditures of federal awards;
  - (4) Incorporate OMB Circular A-133 audit requirements into all contracts between the Contractor and its Subcontractors who are subrecipients;
  - (5) Comply with any future amendments to OMB Circular A-133 and any successor or replacement Circular or regulation; and
  - (6) Comply with the applicable requirements of OMB Circular A-87 and any future amendments to OMB Circular A-87, and any successor or replacement Circular or regulation.
- b. Single Audit Act Compliance. If the Contractor is a subrecipient and expends \$500,000 or more in federal awards from any and/or all sources in any fiscal year, the Contractor shall procure and pay for a single audit or a program-specific audit for that fiscal year. Upon completion of each audit, the Contractor shall:
- (1) Submit to the DSHS contact named on page one of this Contract the data collection form and reporting package specified in OMB Circular A-133, reports required by the program-specific audit guide (if applicable), and a copy of any management letters issued by the auditor;
  - (2) Follow-up and develop corrective action for all audit findings;
  - (3) In accordance with OMB Circular A-133, prepare a "Summary Schedule of Prior Audit Findings."
- c. Overpayments. If it is determined by DSHS, or during the course of a required audit, that the Contractor has been paid unallowable costs under this Contract, DSHS may require the Contractor to reimburse DSHS in accordance with OMB Circular A-87.

**23. Survivability.** The terms and conditions contained in this Contract that shall survive the expiration or termination of this Contract, include but are not limited to: Confidentiality, HIPAA Compliance, Indemnification and Hold Harmless, Inspection, Maintenance of Records, Notice of Overpayment, Ownership of Material, Termination for Default, Termination or Expiration Procedure, Treatment of Property.

- 24. Termination Due to Change in Funding.** If the funds DSHS relied upon to establish this Contract are withdrawn or reduced, or if additional or modified conditions are placed on such funding, DSHS may immediately terminate this Contract by providing written notice to the Contractor. The termination shall be effective on the date specified in the termination notice.
- 25. Termination for Convenience.** DSHS may terminate this Contract in whole or in part when it is in the best interest of DSHS by giving the Contractor at least thirty (30) calendar days' written notice.
- 26. Termination for Default.** The Contracts Administrator may immediately terminate this Contract for default, in whole or in part, by written notice to the Contractor if DSHS has a reasonable basis to believe that the Contractor has:
- a. Failed to meet or maintain any requirement for contracting with DSHS;
  - b. Failed to protect the health or safety of any DSHS client pursuant to Section 9, Health and Safety, of this Contract;
  - c. Failed to perform under, or otherwise breached, any term or condition of this Contract; and/or
  - d. Violated any applicable law or regulation.
- If it is later determined that the Contractor was not in default, the termination shall be considered a termination for convenience.
- 27. Termination or Expiration Procedure.** The following terms and conditions apply upon Contract termination or expiration:
- a. The Contractor shall cease to perform any services required by this Contract as of the effective date of termination or expiration.
  - b. If the Contract is terminated, the Contractor shall comply with all instructions contained in the termination notice.
  - c. The Contractor shall immediately deliver to the DSHS contact named on page one of this Contract, or to his or her successor, all DSHS property in the Contractor's possession, including any "works for hire" as described in Section 17, Ownership of Material. The Contractor grants DSHS the right to enter upon the Contractor's premises for the sole purpose of recovering any DSHS property that the Contractor fails to return within ten (10) calendar days of the effective date of termination or expiration of this Contract. Upon failure to return DSHS property within ten (10) calendar days, the Contractor shall be charged with all reasonable costs of recovery, including transportation.
  - d. DSHS shall be liable only for payment required under the terms of this Contract for service rendered up to the effective date of termination or expiration.

- e. DSHS may withhold a sum from the final payment to the Contractor that DSHS determines necessary to protect DSHS against loss or additional liability.
  - f. The rights and remedies provided to DSHS in this Section are in addition to any other rights and remedies provided at law, in equity, and/or under this Contract, including consequential and incidental damages.
- 28. Treatment of Property.** All property purchased or furnished by DSHS for use by the Contractor during this Contract term shall remain with DSHS. Title to all property purchased or furnished by the Contractor for which the Contractor is entitled to reimbursement by DSHS under this Contract shall pass to and vest in DSHS. The Contractor shall protect, maintain, and insure all DSHS property in its possession against loss or damage and shall return DSHS property to DSHS upon Contract termination or expiration.
- 29. Waiver.** Waiver of any breach or default on any occasion shall not be deemed to be a waiver of any subsequent breach or default. Any waiver shall not be construed to be a modification of the terms and conditions of this Contract unless amended as set forth in Section 2, Amendment. Only the Contracts Administrator or designee has the authority to waive any term or condition of this Contract on behalf of DSHS.

**APPROVED AS TO FORM BY THE OFFICE OF THE ATTORNEY GENERAL**